

	<p>IDEM Permit Guide:</p> <p>Notification Requirements: Fulfilling the Statutory Requirement That Applicants for Environmental Permits Notify Adjoining Property Owners or Occupants Living On Adjoining Property (Neighbor Notification)</p> <p>www.IN.gov/idem/guides/permit/landdevelopment/notification.html</p>
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[Indiana Code, Title 13, Article 15, Chapter 8](#) requires permit applicants to notify adjoining land owners or occupants when applying for an environmental permit on land that is undeveloped, or on land for which a valid existing permit has not been issued. A cautious interpretation of this statute would indicate that persons applying for **almost any environmental permit -- except permit renewals, or permits specifically exempted by this law --** should do the following:

Not more than ten (10) working days after submitting an application for an environmental permit issued by IDEM, the person that submitted the application for the permit shall make a reasonable effort to provide notice:

- (1) to all owners of land that adjoins the land that is the subject of the permit application; or
- (2) if the owner of land that adjoins the land that is the subject of the permit application does not occupy the land, to all occupants of the land;

that the person submitted an application for a permit, or permits. To be safe, reasonable efforts should be made to notify all owners and occupants of adjoining property.

The notice must 1) be in writing, 2) include the date on which the application for the permit was submitted to the department, and 3) include a brief description of the subject of the application.

The construction, installation, or modification of any of the following activities are exempted from this requirement:

- (1) A combined sewer.
- (2) A sanitary sewer.
- (3) A storm sewer.
- (4) A public water supply.
- (5) A water main extension.

Failure on the part of an applicant to meet this requirement could deprive adjoining property owners and occupants of their right to be notified about the permitting of regulated activity, and of their legal right to participate in the permitting process. Such a failure by the applicant would also be grounds for an appeal of any permit IDEM would issue in response to the application. An appeal could result in the permit being declared invalid by an Environmental Law Judge (ELJ) which could lead to a variety of problems for the applicant.

Although it is ultimately the applicants responsibility to ensure proper notification under this statute, IDEM now includes (or soon will include) State Form #49785: [“Affidavit: Applicant Notification to Adjoining Property Owners/Occupants”](#) in all application packets for permits that IDEM believes might be required to notify adjoining property owners or occupants under the statute. Additionally, IDEM’s various permit program areas generally will not deem an application as complete, and will not proceed with the application review process, in the absence of a properly executed affidavit form.

To avoid such problems with the permit, and to ensure that adjacent property owners and occupants receive the notification to which they are entitled, it is recommended that applicants consider the following:

- Carefully document all the steps that you take to make a reasonable effort to provide notice to the owners and occupants of the adjoining land. Save any receipts or other proof of your efforts.
- Obtain the names and mailing addresses of the owners of the adjoining property from the tax assessor’s office in the county where the property is located.
- Review the records at the county recorder’s office to ensure that the adjoining properties have not been sold since the last tax bills were due.
- Establish a record of mailing your notice by using certified mail or certificates of mailing when using the U.S. Mail service to contact property owners and occupants.
- Provide a second copy of the notification letter for each dwelling on the property which can be forwarded by the owner to the tenant who may be occupying their property.
- Mail separately a second copy of each notification letter addressed “To the Occupant of” each property address for which there is any uncertainty regarding whether the occupant is also the owner.
- If the adjacent property consists of more than one dwelling unit, mail a notice to each unit (while establishing some record of mailing) or go door-to-door distributing the notification and somehow document that delivery. You might consider obtaining signatures.

Note: Because the statute requires that permit applicants notify adjacent property owners and occupants “within ten (10) working days after submitting an application for a permit,” a single facility that must obtain more than one new environmental permit must comply with the notice requirements each time a permit application is submitted. However, if multiple permit applications are submitted at or about the same time, a single notice that lists all permits applied for in the previous ten (10) days will be sufficient notice for those permits.

Disclaimer

This permit guide is intended to provide background information and suggestions which should be useful in planning for a particular project that may require an environmental permit. It does not substitute for competent professional advice and consultation with the appropriate regulatory agency and/or the appropriate rules or statute.